



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Information: Forced Labor in Healthcare Supply Chains

AGENCY: Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of Request for Information.

SUMMARY: The Office on Trafficking in Persons (OTIP) requests information on forced labor, a form of human trafficking, in healthcare supply chains including monitoring, training, and research efforts. This request for information (RFI) is part of OTIP's ongoing efforts to seek public comments to inform implementation of Executive Order 14001 (*A Sustainable Public Health Supply Chain*), the *National Strategy for a Resilient Public Health Supply Chain*, and other related efforts on forced labor.

DATES: Comments on this notice must be received by midnight Eastern Daylight Time (EDT) 30 days after posting. OTIP will not respond individually to responders but will consider all comments submitted by the deadline.

ADDRESSES: Please submit all responses via email to EndTrafficking@acf.hhs.gov with "RFI: Forced Labor in Healthcare Supply Chains" in the subject. Submissions can include attachments of or links to any supporting documentation (e.g., research, training materials, policies, data). Please provide your contact information, including the organization name, for possible follow-up from OTIP.

FOR FURTHER INFORMATION CONTACT: Alyssa Wheeler, Policy Analyst,
Office on Trafficking in Persons, Email: Alyssa.Wheeler@acf.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

OTIP is responsible for the development of anti-trafficking strategies, policies, and programs to prevent human trafficking, build health and human service capacity to respond to human trafficking, increase victim identification and access to services, and strengthen health and well-being outcomes of trafficking survivors. OTIP funds the National Human Trafficking Hotline, where an analysis of 32,000 cases reported into the hotline identified healthcare services as one of 25 industries impacted by human trafficking.¹ OTIP programs also include grants to community-based organizations to fund comprehensive case management services for survivors of human trafficking, training and technical assistance for health and human service organizations to build capacity to respond to human trafficking, and research and policy guidance. OTIP serves as the secretariat for the HHS Task Force to Prevent Human Trafficking.²

In July 2021, HHS published the *National Strategy for a Resilient Public Health Supply Chain* in response to Executive Order 14001 on a sustainable public health supply chain.^{3,4,5} The strategy incorporates learnings from experiences of significant disruptions to public health supply chains during the COVID-19 pandemic. It reinforces a commitment to an ethical, equitable, and environmentally sustainable public health supply chain. This includes a call to “having processes in place to identify and mitigate sourcing risks such as child labor, forced labor, and human trafficking.” The strategy recognizes the impact of production scarcity, decrease in qualified labor, insufficient

technical skills, and other domestic and international factors as increasing risk of forced labor. For example, Objective 1.4 incorporates efforts on forced labor while combatting unfair trade.

As part of this response, the Procurement and Supply Chains Committee of the Senior Policy Operating Group under the President's Interagency Taskforce to Monitor and Combat Trafficking in Persons established a subgroup on Forced Labor in Global Supply Chains. This subgroup is coordinating relevant federal efforts on corporate accountability and compliance, including with the healthcare industry.

Public comments responding to this RFI may inform OTIP, HHS, and federal interagency efforts on trainings, policy guidance, resources, and coordination on data and due diligence tailored to healthcare organizations, procurement professionals, and suppliers.

II. Definitions

The term "forced labor" is defined for U.S. enforcement purposes in two separate sections of the United States Code. First, the criminal statutes of Title 18 encompass the range of activities involved in obtaining the labor or services of a person including (1) force, threats of force, physical restraint, or threats of physical restraint; (2) serious harm, threats of serious harm; (3) abuse or threatened abuse of the legal process; (4) or by a "scheme, plan or pattern" designed to cause fear of serious harm or physical restraint (18 U.S.C. 1589). Once a person's labor is obtained by such means, the person's previous consent or effort to obtain employment with the trafficker does not preclude the person from being considered a victim, or the government from prosecuting the offender. Title 18 also defines forced labor as occurring when an individual or entity "knowingly benefits, financially or by receiving anything of value, from participating in a venture

which has engaged in providing or obtaining labor or services by prohibited means, knowing or in reckless disregard of the fact that the venture has engaged in providing or obtaining labor or services by such prohibited means.”⁶

Second, the customs-related statute of Title 19 defines forced labor in connection with the prohibition on the importation of goods mined, produced, or manufactured wholly or in part by convict labor, forced labor, and/or indentured labor (19 U.S.C. 1307). In this context, forced and/or indentured labor includes children and is defined as “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.”⁷

Forced labor is also referenced in connection to human trafficking protections codified in Title 22, specifically in forms of labor trafficking (22 U.S.C. 7102). Labor trafficking, one type of “severe forms of trafficking in persons,” means “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”⁸

Pursuant to concepts set out in the *National Strategy for a Resilient Public Health Supply Chain*, healthcare supply chains include the “finished product... raw materials, equipment, and ancillary supplies needed to make and use that product” (e.g., drugs, biological products, medical devices, personal protective equipment). For the purposes of the RFI, healthcare supply chains also include nutrition-related procurement and the acquisition of services, including delivery of clinical services (e.g., nursing) and ancillary services (e.g., food, custodial, and laundry services).

For purposes of this RFI, “healthcare product” will mean any item sourced or produced in the healthcare supply chain, and “healthcare services” will refer to any services procured by an organization in the healthcare sector, including clinical and support services.

III. Request for Comments

OTIP is interested in all the questions listed below, but respondents are welcome to address as many or as few as they choose and to address additional areas of interest not listed.

A. Information on monitoring forced labor in the procurement of healthcare services.

- Does your organization or another organization have established standard operating procedures for preventing, identifying, reporting, and addressing suspected forced labor or unfair labor practices by staffing agencies or other subcontractors providing workforce personnel?
- What are your current reporting mechanisms in procuring clinical services and services in general? Would it be feasible to incorporate measures on forced labor in those mechanisms?
- How can service contracting practices be strengthened in the healthcare sector?
- Are there mechanisms in place for individuals delivering clinical or supporting services in the healthcare sector to report abuse, fraud, or forced labor? If so, what are those practices and mechanisms? What protections from retaliation are in place for individuals reporting? Are these mechanisms being successfully utilized?
- What steps does your organization take to investigate and, if needed, remediate forced labor violations?

- Are there any barriers in federal policies, programs, and systems that make it challenging to monitor and address forced labor risks in healthcare services procurement? If so, what are those barriers?

B. Information on monitoring forced labor in the procurement of healthcare products.

- Does your organization or another organization have established standard operating procedures for preventing, identifying, reporting, and addressing suspected forced labor or unfair labor practices by potential suppliers or contractors for healthcare products?
- What are your current due diligence and reporting mechanisms in procuring healthcare products in general? Would it be feasible to incorporate measures on forced labor in those mechanisms?
- How can supply chain transparency practices be strengthened to combat forced labor in the healthcare products?
- Are there practices and mechanisms in place for procurement professionals, administrators, contractors, and/or anyone else who might become aware of forced labor risks in procurement of goods to report abuse, fraud, or forced labor? If so, what are those practices and mechanisms? What protections from retaliation are in place for individuals reporting? Are these mechanisms being successfully utilized?
- What steps does your organization take to investigate and, if needed, remediate forced labor violations?
- Are there any barriers in federal policies, programs, and systems that make it challenging to monitor and address forced labor risks in healthcare product procurement? If so, what are those barriers?

C. Information on training and public awareness on forced labor in healthcare supply chains.

- Do you think healthcare procurement professionals and suppliers are aware of forced labor in supply chains (e.g., production of personal protective equipment, medical equipment) or in the workforce (e.g., patient care services, ancillary support services)?
- What resources currently exist to help healthcare procurement professionals and suppliers prevent, identify, report, and address forced labor in supply chains? Please provide links to resources or information on organizations developing resources.
- What trainings, information sharing, or information collection efforts have successfully integrated content on forced labor in the acquisition of healthcare products and services?
- What are the gaps in training, technical assistance, and awareness on identifying, monitoring, and addressing forced labor in healthcare supply chains?

D. Information on research and data on forced labor in healthcare supply chains.

- Who do you consider a subject matter expert on forced labor in healthcare supply chains and/or in supply chains more broadly? Please provide the name, affiliation, and e-mail for any individuals you list.
- Do you currently rely on research, data, or information on forced labor in healthcare supply chains to inform your organization's practices to prevent, monitor, and respond to concerns? If so, what type of information and where do you access that information?
- What research, data, or information would be helpful to inform and/or strengthen due diligence processes for healthcare procurement professionals and suppliers?

- What diversity, equity, and inclusion considerations should inform understanding of how forced labor occurs in healthcare supply chains from both the administrative and workforce perspectives?

This RFI is for planning purposes only and should not be construed as a policy, solicitation for applications, or as an obligation on the part of the Government to provide support for any ideas identified in response to it. OTIP will use the information submitted in response to this RFI at its discretion and will not provide comments to any responder's submission. However, responses to the RFI may be reflected in future solicitation(s), policies, or publications. Respondents will not be identified in any published reports. Respondents are advised that the Government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. No proprietary, classified, confidential, or sensitive information should be included in your response, unless marked as Business Confidential Information (BCI). Materials submitted may be made public.

Material submitted by members of the public that is properly marked as BCI with a valid statutory basis will not be disclosed publicly. For any comments that contain BCI, the file name of the business confidential version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page, and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. A filer requesting business confidential treatment must certify that the information is business confidential and that they would not customarily release it to the public. Filers of comments containing BCI also must submit a public version of their comments. The file name of the public version should begin with the character 'P'.

Dated: June 16, 2022.

Roshelle M. Brooks, Office of the Executive Secretariat, Administration for Children and Families.

Footnotes

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¹ The Typology of Modern Slavery report analyzing data from the National Human Trafficking Hotline is available at <https://polarisproject.org/wp-content/uploads/2019/09/Polaris-Typology-of-Modern-Slavery-1.pdf>

² Press release for the HHS Task Force to Prevent Human Trafficking is available at <https://www.hhs.gov/about/news/2022/01/31/secretary-becerra-announces-new-hhs-task-force-to-prevent-human-trafficking.html>

³ The National Strategy for a Resilient Public Health Supply Chain is available at <https://www.phe.gov/Preparedness/legal/Documents/National-Strategy-for-Resilient-Public-Health-Supply-Chain.pdf>

⁴ Executive Order 14001 is available at <https://www.federalregister.gov/documents/2021/01/26/2021-01865/a-sustainable-public-health-supply-chain>

⁵ More information on mitigating labor trafficking in public health supply chains is available at <https://www.acf.hhs.gov/blog/2021/10/mitigating-labor-trafficking-public-health-supply-chains>

⁶ Additional text on 18 U.S.C. 1589 is available at <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-2000-title18-section1589&num=0>

⁷ Additional text on 19 U.S.C. 1307 is available at [https://uscode.house.gov/view.xhtml?req=\(title:19%20section:1307%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:19%20section:1307%20edition:prelim))

⁸ Additional text on 22 U.S.C. 7102 is available at <https://www.govinfo.gov/content/pkg/USCODE-2011-title22/html/USCODE-2011-title22-chap78.htm>